

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

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IN RE PHARMACEUTICAL INDUSTRY  
AVERAGE WHOLESale PRICE  
LITIGATION

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MDL No. 1456

Judge Patti B. Saris

THIS DOCUMENT RELATES TO  
01-CV-12257-PBS and 01-CV-339

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**TRIAL OF CLASS 2 AND 3 CLAIMS**

**TRACK 1 DEFENDANTS' MOTION FOR JUDGMENT ON PARTIAL FINDINGS**

Track 1 Defendants, by their undersigned counsel, respectfully move this Court pursuant to Federal Rule of Civil Procedure 52(c) for judgment on partial findings as to all claims asserted against them in Plaintiffs' Fourth Amended Master Consolidated Class Action Complaint. The grounds for this motion are stated in the Memorandum of Law in Support of Track 1 Defendants' Motion for Judgment on Partial Findings, attached hereto.

WHEREFORE, for the reasons set forth in the memoranda described above, Defendants respectfully request that the Court grant their motion for judgment on partial findings as to all claims in the Fourth Amended Master Consolidated Class Action Complaint and enter an Order (a) dismissing all claims in the Fourth Amended Master Consolidated Class Action Complaint; and (b) providing such other and further relief as the Court deems just and proper.

Respectfully submitted,

THE FOLLOWING TRACK 1 DEFENDANTS

By: /s/ Katherine B. Schmeckpeper

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Dated: December 18, 2006

**CERTIFICATE PURSUANT TO LOCAL RULE 7.1**

I certify that the moving parties communicated with counsel for plaintiffs on December 18, 2006 in an effort to resolve the dispute referred to in this motion, and that the parties have not been able to reach agreement with respect thereto.

By: /s/ Catherine N. Karuga  
Catherine N. Karuga

**CERTIFICATE OF SERVICE**

I certify that a true and correct copy of the foregoing was delivered on December 18, 2006 to counsel for plaintiffs and to all counsel of record by electronic service pursuant to Paragraph 11 of Case Management Order No. 2, via LexisNexis File & Serve.

By: /s/ Catherine N. Karuga  
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